

1 1. Government's Exhibit 1—DEA Controlled Substance Registration Certificate

2 Government's Exhibit 1 violates Rule 403 and 802 of the Federal Rules of Evidence.

3 Government's Exhibit 1 is Dr. Hocog's personal DEA Registration Certificate. The Controlled
4 Substances Act provides who are required to register and who are exempted. 21 U.S.C. § 822. The
5 issue in this case is whether Dr. Hocog is licensed or otherwise exempted under the Act, not whether
6 Dr. Hocog issued controlled substances outside his personal DEA Certificate that he was not
7 required to obtain because he was exempted as an employee of CHC. 21 U.S.C. § 822 and 841(a).

8 To allow the introduction of Government Exhibit 1 would be unfairly prejudicial, will cause
9 confusion of the issues, or mislead the jury.
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11 Therefore, the Court should prohibit the introduction of Government's Exhibit 1 by any party
12 to this action or the reference by counsel in front of the jury.
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15 2. Government's Exhibit 2—Certification of Registration Status, dated April 10, 2008

16 Government's Exhibit 2 is a hearsay within hearsay that violates Rule 805, 802, and 403 of
17 the Federal Rules of Evidence. Government's Exhibit 2 is a certification of Mr. Richard A. Boyd
18 regarding Dr. Hocog's personal DEA Registration number and regarding Dr. Hocog's alleged
19 response to one of the DEA registration questions that Dr. Hocog filled out online.
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21 To allow certification statements allegedly made by Dr. Hocog would constitute double
22 hearsay, and therefore, not admissible. Furthermore, to allow such certification statements allegedly
23 made by Dr. Hocog would also deprive Dr. Hocog his Sixth Amendment right to confront the
24 witnesses against him.
25

1 Furthermore, to allow certification statements allegedly made by Dr. Hocog without the
2 opportunity to cross-examine will be unfairly prejudicial, will likely confuse the issues, or mislead
3 the jury.

4 Therefore, the Court should prohibit the introduction of Government's Exhibit 2 by any party
5 to this action or the reference by counsel in front of the jury.
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8 3. Government's Exhibit 3—License issued by CNMI Medical Profession Licensing Board,
9 dated January 1, 2007

10 Government's Exhibit 3 violates Rule 403 and 802 of the Federal Rules of Evidence.

11 Government's Exhibit 3 is Dr. Hocog's CNMI Medical License.
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13 On or about December 21, 2004, the Medical Profession Licensing Board granted Dr. Hocog
14 a license to practice medicine, but it placed conditions. On February 5, 2008, Dr. Hocog's former
15 counsel and Dr. Hocog executed the Special Terms and Conditions of Medical License (the "License
16 Terms and Conditions") that was prepared by former Assistant Attorney General Dana Emery,
17 pursuant to the Medical Professional Licensing Board's decision to grant Dr. Hocog a conditional
18 license to practice medicine.
19

20 Condition 4 of the License Terms and Conditions says that "I shall not prescribe any U.S.
21 federally controlled substances to outpatients for twelve months following the date of issuance of my
22 license." Condition 5 of the License Terms and Conditions says that "I agree to only prescribe U.S.
23 federally controlled substance through the course of my employment at the Commonwealth Health
24 Center (CHC) and only when those substances are part of specified course of treatment for an
25 admitted patient." Condition 5 further states, "When I issue prescriptions to 'in-patients', I agree
26 that an identified supervising CHC physician will countersign such prescriptions."
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1 On or around February 27, 2006, however, the Medical Profession Licensing Board, by and
2 through counsel, informed Dr. Hocog that the Medical Profession Licensing Board extended the
3 originally imposed conditions for an additional 12-month period to run concurrent with the term of
4 Dr. Hocog's license to practice medicine in the CNMI, which expired in December 2006.

5
6 When Dr. Hocog received his current license to practice medicine, he subsequently
7 discovered that the words "*****RESTRICTED LICENSE*****LICENSEE CAN ONLY
8 PRESCRIBE SCHEDULE IV AND V CONTROLLED SUBSTANCES" were type-written on his
9 license.

10
11 Dr. Hocog, however, was never given any notice of hearing or opportunity to be heard
12 regarding any extension of the restrictions on his license as originally imposed and which expired in
13 December 2006.

14 To allow the introduction of Government's Exhibit 3 would be unfairly prejudicial, will
15 cause confusion of the issues, or mislead the jury.

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17 Therefore, the Court should prohibit the introduction of Government's Exhibit 3 by any party
18 to this action or the reference by counsel in front of the jury.

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20 4. Part of Government's Exhibit 5—Unexecuted Position Description

21 The last two pages (Position Description) of Government's Exhibit 5 are not part of Dr.
22 Hocog's current contract with CHC and the Position Description is completely unexecuted.

23
24 To allow the introduction of the last two pages of Government's Exhibit 5 would be unfairly
25 prejudicial, will cause confusion of the issues, or mislead the jury. It is, of course, hearsay in
26 violation of Rule 802 of the Federal Rules of Evidence.

1 Therefore, the Court should prohibit the introduction of the last two pages of Government's
2 Exhibit 5 by any party to this action or the reference by counsel in front of the jury.

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5 5. Government's Exhibit 16—CHC Ambulatory Encounter Form

6 Government's Exhibit 16 violates Rules 805, 802, and 403. It will be a waste of time, cause
7 undue delay, may mislead the jury, confuse the issues, or unfairly prejudicial to Dr. Hocog, because
8 there is no order for controlled substances as charged in the Indictment on Exhibit 16.

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10 Therefore, for the foregoing reasons stated above, Defendant Larry Hocog's motion in limine
11 should be GRANTED.

12 Respectfully submitted this 3rd day of July, 2008.

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14 O'CONNOR BERMAN DOTTS & BANES

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